

and west of Stockton Street. A business recently extended a building over the water main. It was done without a building permit. Staff felt that the simplest thing to do would be to abandon that portion as a public main. The business would have to install backflow devices.

Mayor Pro Tempore Hitchcock was opposed to staff's recommendation, as it abandons a public asset for the convenience of a private corporate business. She felt that the City should be compensated; otherwise it would encourage this type of situation.

In answer to Council inquiries, City Attorney Schwabauer stated that, presumably, the easement states that property owners cannot build over the water main without seeking permission and as a legal matter the City could require them to destroy the structure.


Mr. Prima stated it was his understanding that, in the case of additions done without building permits, the property owner must either tear it down or obtain a building permit and pay a penalty.

Council Member Johnson asked staff to return to Council with more information regarding who is responsible, what the cost of the building permit and penalties would be, etc.

MOTION/VOTE:

The City Council, on motion of Council Member Johnson, Beckman second, unanimously moved the subject matter to the regular City Council meeting of March 16, 2005.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- 
- Tyler Rothermel presented information to Council from the SkatePark Association of the United States of America (filed). He asked that the City consider implementing a policy whereby BMX bicycles can be allowed at the skate park.

Mayor Beckman informed Mr. Rothermel that the City Manager would contact him regarding his request.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen provided an update on a recent San Joaquin Council of Governments (SJCOG) meeting he attended, at which a decision was made on how to spend Surface Transpottation Program (STP) funds over a three-year period. All city representatives voted to allow \$2.8 million in STP funds to be spent on regional projects and give SJCOG flexibility on how to spend it. Regional projects that had been identified included the interstates and highways of 205, 5, 12, 99, and 120. The two County representatives at the meeting wanted to spend the entire \$16 million on local roads and projects. Another important issue that the SJGOG will be dealing with in the near future is the Regional Transportation Impact Fee, which will be assessed on new homes, businesses, and industries that come into San Joaquin County.

City Manager King explained that some people viewed the Federal STP money as successor of local maintenance funds and felt that it should stay within the local jurisdiction for maintenance purposes. The SJCOG staff felt that the Federal STP funds were regional money that should go toward regional projects. He reviewed the options that were considered at the meeting.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider and approve community input and proposals for uses of the City's 2005-06 Federal allocation of Community Development Block Grant and HOME Program funds and the reallocation of available funds from previous program years.



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filed 3-2-05
Public
Comments
Sub

SPAUSA BMX
Chapter 209
Tyler Rothermel
2250 Scarborough Drive #59
Lodi CA 95240

3.1.2005

Dear Tyler,

I spoke with your risk manager the other day and he was optimistic that we will be able to work something out thru your SPAUSA BMX club, Chapter 209. Each one of your members would need to belong to SPAUSA and you would have to monitor your sessions to make sure that everyone riding was a SPAUSA member. The city of Lodi is already a member and named on our policy.

As you know BMX is already an Olympic sport (downhill racing) and we are working to receive recognition for Vert and Street and hopefully be able to have these sports in the future Olympics. We need to help make sure that BMX riders have as much opportunity to train and recreate as skateboarding and inline skating.

I also have a call into Cities Securities to see if they will cover the BMX. I have known Pat for 10 years and he was a presenter for insurance for the organizing bodies so I am sure he will have some ideas too.

~~Chapter 209~~ and members will be covered under SPAUSA for \$2 million aggregate with \$ 1 million per occurrence, ~~zero deductible~~. Coverage also includes \$25,000 medical with \$2,500 deductible.

I have attached some information on Mini Skatepark Expo and I am hoping you can pass this on to your recreation & parks dept. We will cover BMX in depth and I think your city will find it useful. I look forward to working with you on this project.

Sincerely,

Heidi Lemmon

Executive director SPAUSA
Board member ASTM standards for skateparks
SPAUSA founding member USAS – USA Skateboarding
Organizing Member USAS national competition series and ISF Olympic movement
Board member IBMXFF – International BMX Freestyle Federation





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Federal Tax ID #95-4745205

**SPAUSA's mission
TO EDUCATE, INFORM AND RAISE PUBLIC AWARENESS
IN ALL AREAS OF
SKATEBOARDING, SKATING & FREESTYLE BMX**

*To provide FREE assistance to individuals and cities interested in building skateparks.
To develop safety demos and programs.
To encourage cities to build safe, functional and creative skateparks
To assist skaters & bikers with tickets & harassment.
To assist skaters & bikers with civil rights issues.
To assist individuals & cities with fund raising for skateparks.
To provide FREE after school programs for youth.
To promote the growth of the sport and the participants in a positive manner.
To provide positive role models for skateboarders, bikers & inline skaters.
To make these sports available to all persons regardless of income, race or religion.
To support amateur competitions.
To develop skateboard and BMX instructors to further teaching athletics in these areas.
To actively work to bring these sports to at risk youth and inner city youth.
To provide additional services for skateboarders, inline skaters and freestyle bmx'ers, as needed, thru art, music and educational opportunities.*

For information on:

**skatepark construction, community planning, youth programming
events, grand openings, risk management, sports programs**

contact SPAUSA

310.398.7112 ph 310.398.7122 fax

heidi@spausa.org

www.spausa.org

Board member ASTM standards for skateparks

Board member International BMX Freestyle Federation IBMXFF

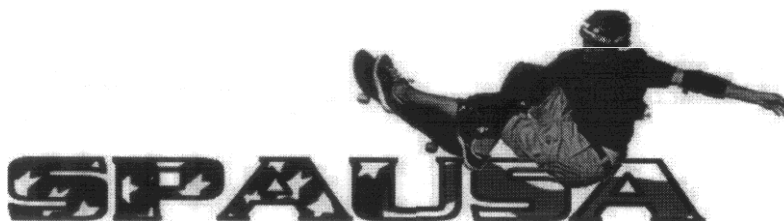
Board member USA Skateboarding USAS

Committee member for the Olympic International Skateboard Federation



Federal Tax ID # 95-4745205

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Membership & Liability Coverage

Membership & Sanctioning Fees

SKATEPARKS & Events \$100 per year

Rider's membership fees are separate and rider pays fee

Individual Skateboarders & Inline \$30 per year

MEMBERSHIP

individual BMX \$30 per year

no age restrictions

coverage worldwide SPAUSA events & parks

membership originating in USA

carrier for medical:

Mutual of Omaha

\$25,000 medical - \$2500 deductible

liability

\$2 million aggregate

\$1 million - products & completed Operations

\$1 million - personal & Advertising liability

\$50,000 - tenants legal liability

medical expense (excluded see above for medical)

\$1 million - participant's legal liability

DEMOS & Event Coverage

If your participant is a current SPAUSA member – no fee

3 DAY events / \$8 SK8 & \$10 BMX

1 DAY event / \$5 skate & \$7 BMX

riders must fill out waiver
and all fees paid within 7 days

* Great for PRO's!

ADDITIONAL INSURED \$45

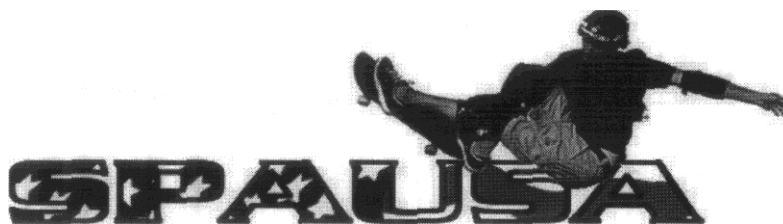
Please include name, physical address and contact info

FAX 310 . 398 . 7122

SPECIAL \$49 INCLUDES A SKATEBOARD DECK



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SPAUSA Membership Program

SPAUSA membership program is very similar to AYSO soccer, Little League, NBL, ABA etc. It is based on individual membership. Your park, tour, event, camp or competition joins SPAUSA and becomes a sanctioned park. You will need to operate the park in a safe & responsible manner and riders need to wear helmets.

You are covered while any SPAUSA member is riding in your park. Insurance is included with each individual membership. Each individual rider is covered as well as the park.

We can also add your landlord on as an additional insured for a \$25 fee.

If you decide to hold a demo at another location you will be covered as long as all the riders are SPAUSA members. Your members will be covered in any SPAUSA member park / event.

RISK:

We only cover SPAUSA members. If a rider were to sneak into your park or borrow someone's card you would not be covered. I think that is why other organizations require uniforms – to identify members easily. That is not possible with skaters & hikers so you will have to be diligent. You may require a photo ID or you can require the riders to include a photo ID with the waiver and we will laminate it onto their cards. Camp riders will be covered while riding but NOT while doing other activities (swimming, jetskis etc). If you think there is risk here then you would benefit from an additional policy and you can get quotes from:

Demos. Competitions & Events

Your demo / event is covered as long as riders are SPAUSA members. We have 1-3 day memberships for events. Example: If you have a demo team of 5 riders and are planning 10 events around the country (or world) you would pay: \$100 membership fee, 5 rider memberships \$150. Total \$250 per year. If you had extra riders at each stop you would pay \$7 each and \$45 for each additional insured as needed (landlords might require this). Waivers must be signed. *Great program for Pro Demos

Churches, non profits & skate shops with mini-ramps

You most likely already carry general liability, fire & theft and your company is excluding participants. That is what we pick up. As long as you are confident that your riders will be members this is all the coverage you require. The rider pays the fee and your cost is \$100 per year. Waivers must be signed

Indoor Darks

If you can control the admission you can get by with our program if you are diligent. You will still need general liability, fire & theft. If you have any doubts about someone sneaking in or forging a waiver then you would be wise to get additional coverage. Waivers must be signed

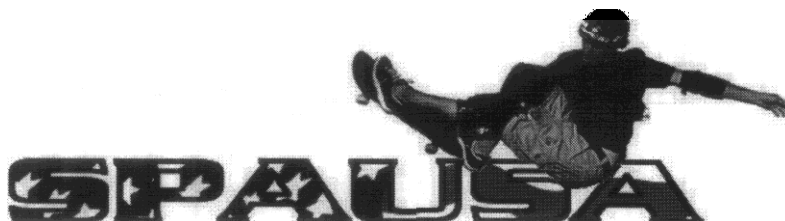
Outdoor Darks with fencing

There is a greater risk for kids to jump the park and ride. Again our members would be covered. The fact that the riders would be committing a crime may make them ineligible to sue if they were injured. You may want to carry extra insurance as the risk is greater. Waivers must be signed

Advantages of SPAUSA membership

You are 1 step further away from a lawsuit. Each rider carries insurance and you are covered from each rider. If a board were to hit someone and they were to file a suit against you, SPAUSA, the landlord and the rider, we are all covered. This is good coverage for any pro riders who do a lot of demos. Spectators are covered if they are injured by one of our riders (SPAUSA). SPAUSA members support skateparks!





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Welcome to SPAUSA

Enclosed are your waivers

It is very important that the parents sign the waiver if the child is under 18. They need to do this in front of you or get it notarized. If you have any doubts about the parent ask them to have it notarized (different last names.. too many children all the same age..)

Send the white copy to us with payment every week

\$30 –skaters 1 year membership \$30 - bikes

Keep the yellow copy for your files.

Your coverage begins as soon as the forms are signed and they pay the membership fee.

Mail every week to:

SPAUSA

2118 wilshire blvd #622

santa monica ca 90403

We will issue a permanent card in approx. 3 weeks. It will be mailed to your park unless you make a note to send it somewhere else.

Helmets must be worn in the park.

Every **SPAUSA** member carries **\$2 million liability** to protect the park or event they are riding in and to **protect themselves** against a lawsuit.

Carrier: Chubb liability / medical Mutual of Omaha

Covered activities: Freestyle Biking, Inline & Skateboarding

SPAUSA & Members in sanctioned: Parks, events, demos & competitions
each occurrence \$1,000,000 deductible \$0

Medical - \$2500 deductible – secondary coverage only

report all injuries at once *** inspect park daily and keep a written log**

RIDE hard & have FUN!

Ph.310.398.7112 fax 310 . 398 . 7122

Event Membership

3 DAYS for \$8 SK8 & \$10 BMX

1 DAY event \$5 SK8 & \$7 BMX

1 Year \$30 per person

SPAUSA members with a current membership card – NO FEE

Waivers must be signed and sent in with payment

We must have **all** event info on file **BEFORE** the event.

SPECIAL \$49 INCLUDES A SKATEBOARD DECK AND SPAUSA

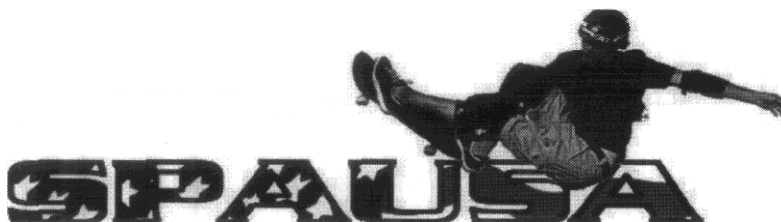
Skate Park Membership and sanctioning for privately owned parks and events

you must meet all safety requirements: Membership Fee \$100 per year



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4



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IASC member discount \$50 per year _____

Date _____

Organization, Park or Event _____

Address _____

City _____ State _____ Zip _____

Director of Park, Event or Organization _____

Phone# (____) _____ Fax.# (____) _____

email _____ Web Site _____

Emergency Contact _____ ph# _____

Indoor _____ Outdoor _____ Air-conditioned Y__ N__

Approximate Sq. footage of skating area _____

Describe Fencing or crowd control _____

Hours of Operation _____

Do you allow: Competitions _____ BMX _____ In line _____ Skateboards _____

Concerts _____ Day Camp _____ Sleep Away Camp _____ Tours _____ Child Care _____

Park or Event Description (If you are a competition or tour please attach a copy of
your itinerary, including dates and locations.) _____

of injuries in the last 12 months _____

Have you ever had a claim? If so explain _____

print name _____ signature of park director or responsible party _____ date _____

Safety Requirements:

Your park must have fencing or crowd control, be supervised & participants must wear helmets Keep glass and debris out of the park

Your park must be maintained and inspected before opening A written log is required for park inspection, maintenance and injuries

This is very important in the event of a lawsuit

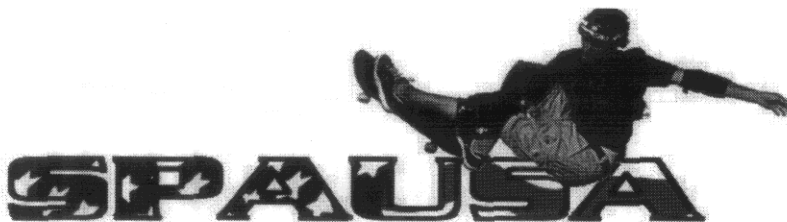
Park must be a drug & alcohol free zone Spectators must be kept out of the park area unless they sign a waiver and wear a helmet

Please check all that apply:

SPAUSA individual membership required _____ not required _____

Additional Insured _____





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Claim Form

Special Risk Services
P.O. Box 31156
Omaha, Nebraska 68131
Claim Inquiries
1-800-521-2324

SEE REVERSE SIDE FOR FRAUD LANGUAGE

To Be Completed By Organization/School

Policy Number: TSMP - 055750
Organization/School Name: Skate Park Association of the USA
Address: _____
Phone No. (____) ____-____
Name of team/sport (if applicable): _____ Type of Activity _____
☐ Interscholastic/Intercollegiate ☐ P.E. class
☐ Intramural ☐ Practice ☐ Game ☐ Jr. Varsity ☐ Varsity (activity involved)
Dates of event (if student-date school started): _____
At the time of injury, was the insured involved in an activity sponsored by the Policyholder? ☐ Yes ☐ No
Under whose supervision? _____ Was he/she a witness? ☐ Yes ☐ No
If employed, was injury/sickness related to claimant's employment? ☐ Yes ☐ No

Type of Benefits Claimed

☐ Accident-Medical Date of Accident _____ Hour ____ a.m. ____ p.m.
☐ Dental Location of accident _____
☐ Sickness-Medical Description of accident _____
☐ Loss of Time Type of injury or illness _____
First treatment date _____
Dates claimed _____

Dated: _____
Signature of Organization/School Official & Title _____

To Be Completed By Claimant — Or By Parent/Legal Guardian If Claimant Is A Minor

Claimant's Name: _____
Age: _____ ☐ Male ☐ Female
Address of Parents, Guardian or Claimant: _____
Home Phone No. (____) ____-____
Name and address of Family Physician: _____
Phone No. (____) ____-____
Has treatment been completed? ☐ Yes ☐ No
Father, Guardian or Claimant's (if adult)
Employer, Name and Address: _____
Phone No. (____) ____-____
Mother or
Spouse's Employer, Name and Address: _____
Phone No. (____) ____-____
Name of all companies providing your insurance coverage or prepaid health plans.
Name of Company Address Policy or Certificate No.

☐ Individual
☐ Group (Eff. Date _____)

Are benefits due for this claim under these other insurance coverages? ☐ Yes ☐ No

If yes, attach copies of explanation of payments from primary carrier.

I hereby certify that all above information is true and complete.

Signature _____ Date _____

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CALIFORNIA CODES
GOVERNMENT CODE
SECTION 830-831.9

830. As used in this chapter:

(a) "Dangerous condition" means a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used.

(b) "Protect against" includes repairing, remedying or correcting a dangerous condition, providing safeguards against a dangerous condition, or warning of a dangerous condition.

(c) "Property of a public entity" and "public property" mean real or personal property owned or controlled by the public entity, but do not include easements, encroachments and other property that are located on the property of the public entity but are not owned or controlled by the public entity.

830.1. For purposes of this chapter, seismic safety improvements or fire sprinkler improvements which are owned, built, controlled, operated, and maintained by the private owner of the building in which they are installed are not public property or property of a public entity solely because the improvements were financed, in whole or in part, by means of the formation of a special assessment district.

830.2. A condition is not a dangerous condition within the meaning of this chapter if the trial or appellate court, viewing the evidence most favorably to the plaintiff, determines as a matter of law that the risk created by the condition was of such a minor, trivial or insignificant nature in view of the surrounding circumstances that no reasonable person would conclude that the condition created a substantial risk of injury when such property or adjacent property was used with due care in a manner in which it was reasonably foreseeable that it would be used.

830.4. A condition is not a dangerous condition within the meaning of this chapter merely because of the failure to provide regulatory traffic control signals, stop signs, yield right-of-way signs, or speed restriction signs, as described by the Vehicle Code, or distinctive roadway markings as described in Section 21460 of the Vehicle Code.

830.5. (a) Except where the doctrine of res ipsa loquitur is applicable, the happening of the accident which results in the injury is not in and of itself evidence that public property was in a dangerous condition.

(b) The fact that action was taken after an injury occurred to protect against a condition of public property is not evidence that the public property was in a dangerous condition at the time of the injury.

830.6. Neither a public entity nor a public employee is liable under this chapter for an injury caused by the plan or design of a construction of, or an improvement to, public property where such plan or design has been approved in advance of the construction or improvement by the legislative body of the public entity **or** by some other body or employee exercising discretionary authority to give such approval or where such plan or design is prepared in conformity with standards previously so approved, if the trial or appellate court determines that there is any substantial evidence upon the basis of which (a) a reasonable public employee could have adopted the plan or design or the standards therefor or (b) a reasonable legislative body or other body or employee could have approved the plan or design or the standards therefor. Notwithstanding notice that constructed or improved public property may no longer be in conformity with a plan or design or a standard which reasonably could be approved by the legislative body or other body or employee, the immunity provided by this section shall continue for a reasonable period of time sufficient to permit the public entity to obtain funds for and carry out remedial work necessary to allow such public property to be in conformity with a plan or design approved by the legislative body of the public entity or other body or employee, or with a plan or design in conformity with a standard previously approved by such legislative body or other body or employee. In the event that the public entity is unable to remedy such public property because of practical impossibility or lack of sufficient funds, the immunity provided by this section shall remain so long as such public entity shall reasonably attempt to provide adequate warnings of the existence of the condition not conforming to the approved plan or design or to the approved standard. However, where a person fails to heed such warning or occupies public property despite such warning, such failure or occupation shall not in itself constitute an assumption of the risk of the danger indicated by the warning.

930.8. Neither a public entity nor a public employee is liable under this chapter for an injury caused by the failure to provide traffic or warning signals, signs, markings or devices described in the Vehicle Code. Nothing in this section exonerates a public entity or public employee from liability for injury proximately caused by such failure if a signal, sign, marking or device (other than one described in Section 830.4) was necessary to warn of a dangerous condition which endangered the safe movement of traffic and which would not be reasonably apparent to, and would not have been anticipated by, a person exercising due care.

830.9. Neither a public entity nor a public employee is liable for an injury caused by the operation or nonoperation of official traffic control signals when controlled by an emergency vehicle in accordance with the provisions of subdivision (a) of Section 25258 of the Vehicle Code.

831. Neither a public entity nor a public employee is liable for an injury caused by the effect on the use of streets and highways of weather conditions as such. Nothing in this section exonerates a public entity or public employee from liability for injury proximately caused by such effect if it would not be reasonably apparent to, and would not be anticipated by, a person exercising due care. For the purpose of this section, the effect on the use of streets and highways of weather conditions includes the effect of fog, wind, rain, flood, ice or snow but does not include physical damage to or deterioration of streets and highways resulting from weather conditions.

831.2. Neither a public entity nor a public employee is liable for an injury caused by a natural condition of any unimproved public property, including but not limited to any natural condition of any lake, stream, bay, river or beach.

831.21. (a) Public beaches shall be deemed to be in a natural condition and unimproved notwithstanding the provision or absence of public safety services such as lifeguards, police or sheriff patrols, medical services, fire protection services, beach cleanup services, or signs. The provisions of this section shall apply only to natural conditions of public property and shall not limit any liability or immunity that may otherwise exist pursuant to this division.

(b) This section shall only be applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

831.25. (a) Neither a public entity nor a public employee is liable for any damage or injury to property, or for emotional distress unless the plaintiff has suffered substantial physical injury, off the public entity's property caused by land failure of any unimproved public property if the land failure was caused by a natural condition of the unimproved public property.

(b) For the purposes of this section, a natural condition exists and property shall be deemed unimproved notwithstanding the intervention of minor improvements made for the preservation or prudent management of the property in its unimproved state that did not contribute to the land failure.

(c) As used in this section, "land failure" means any movement of land, including a landslide, mudslide, creep, subsidence, and any other gradual or rapid movement of land.

(d) This section shall not benefit any public entity or public employee who had actual notice of probable damage that is likely to occur outside the public property because of land failure and who fails to give a reasonable warning of the danger to the affected property owners. Neither a public entity nor a public employee is liable for any damage or injury arising from the giving of a warning under this section.

(e) Nothing in this section shall limit the immunity provided by Section 831.2.

(f) Nothing in this section creates a duty of care or basis of

liability for damage or injury to property or of liability for emotional distress.

831.3. Neither a public entity nor a public employee is liable for any injury occurring on account of the grading or the performance of other maintenance or repair on or reconstruction or replacement of any road which has not officially been accepted as a part of the road system under the jurisdiction of the public entity if the grading, maintenance, repair, or reconstruction or replacement is performed with reasonable care and leaves the road in no more dangerous or unsafe condition than it was before the work commenced. No act of grading, maintenance, repair, or reconstruction or replacement within the meaning of this section shall be deemed to give rise to any duty of the public entity to continue any grading, maintenance, repair, or reconstruction or replacement on any road not a part of the road system under the public entity's jurisdiction. As used in this section "reconstruction or replacement" means reconstruction or replacement performed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

831.4. A public entity, public employee, or a grantor of a public easement to a public entity for any of the following purposes, is not liable for an injury caused by a condition of:

(a) Any unpaved road which provides access to fishing, hunting, camping, hiking, riding, including animal and all types of vehicular riding, water sports, recreational or scenic areas and which is not a (1) city street or highway or (2) county, state or federal highway or (3) public street or highway of a joint highway district, boulevard district, bridge and highway district or similar district formed for the improvement or building of public streets or highways.

(b) Any trail used for the above purposes.

(c) Any paved trail, walkway, path, or sidewalk on an easement of way which has been granted to a public entity, which easement provides access to any unimproved property, so long as such public entity shall reasonably attempt to provide adequate warnings of the existence of any condition of the paved trail, walkway, path, or sidewalk which constitutes a hazard to health or safety. Warnings required by this subdivision shall only be required where pathways are paved, and such requirement shall not be construed to be a standard of care for any unpaved pathways or roads.

831.5. (a) The Legislature declares that innovative public access programs, such as agreements with public land trusts, can provide effective and responsible alternatives to costly public acquisition programs. The Legislature therefore declares that it is beneficial to the people of this state to encourage private nonprofit entities such as public land trusts to carry out programs that preserve open space or increase opportunities for the public to enjoy access to and use of natural resources if the programs are consistent (1) with public safety, (2) with the protection of the resources, and (3) with public and private rights.

(b) For the purposes of Sections 831.2, 831.25, 831.4, and 831.7,

"public entity" includes a public land trust which meets all of the following conditions:

(1) It is a nonprofit organization existing under the provisions of Section 501(c) of the United States Internal Revenue Code.

(2) It has specifically set forth in its articles of incorporation, as among its principal charitable purposes, the conservation of land for public access, agricultural, scientific, historical, educational, recreational, scenic, or open-space opportunities.

(3) It has entered into an agreement with the State Coastal Conservancy for lands located within the coastal zone, as defined in Section 31006 of the Public Resources Code, with the California Tahoe Conservancy or its designee for lands located within the Lake Tahoe region, as defined in subdivision (c) of Section 66953 of the Government Code, or with the State Public Works Board or its designee for lands not located within the coastal zone or the Lake Tahoe region, on such terms and conditions as are mutually agreeable, requiring the public land trust to hold the lands or, where appropriate, to provide nondiscriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both. The conservancy or the board, as appropriate, shall periodically review the agreement and determine whether the public land trust is in compliance with the terms and conditions. In the event the conservancy or the board determines that the public land trust is not in substantial compliance with the agreement, the conservancy or the board shall cancel the agreement, and the provisions of Sections 831.2, 831.25, 831.4, and 831.7 shall no longer apply with regard to that public land trust.

(c) For the purposes of Sections 831.2, 831.25, 831.4, and 831.7, "public employee" includes an officer, authorized agent, or employee of any public land trust which is a public entity.

831.6. Neither the State nor an employee of the State is liable under this chapter for any injury caused by a condition of the unimproved and unoccupied portions of:

(a) The ungranted tidelands and submerged lands, and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets and straits, owned by the State.

(b) The unsold portions of the 16th and 36th sections of school lands, the unsold portions of the 500,000 acres granted to the State for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the 16th and 36th sections and losses to the school grant.

~~831.7. (a)~~ Neither a public entity nor a public employee is liable to any person who participates in a **hazardous recreational activity**, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.

(b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on property of a public

entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

(1) Water contact activities, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been given or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.

(3) Animal riding, including equestrian competition, archery, ~~bicycle racing of~~ **Jumping**, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, paragliding, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, "mountain bicycling" does not include riding a bicycle on paved pathways, roadways, or sidewalks.

(c) Notwithstanding the provisions of subdivision (a), this section does not limit liability which would otherwise exist for any of the following:

(1) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(2) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this paragraph, a "specific fee" does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(3) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(4) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this paragraph, promotional literature or a public announcement or advertisement which merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(5) An act of gross negligence by a public entity or a public employee which is the proximate cause of the injury.

Nothing in this subdivision creates a duty of care or basis of

liability for personal injury or for damage to personal property.

(d) Nothing in this section shall limit the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

831.8. (a) Subject to subdivisions (d) and (e), neither a public entity nor a public employee is liable under this chapter for an injury caused by the condition of a reservoir if at the time of the injury the person injured was using the property for any purpose other than that for which the public entity intended or permitted the property to be used.

(b) Subject to subdivisions (d) and (e), neither an irrigation district nor an employee thereof nor the state nor a state employee is liable under this chapter for an injury caused by the condition of canals, conduits or drains used for the distribution of water if at the time of the injury the person injured was using the property for any purpose other than that for which the district or state intended it to be used.

(c) Subject to subdivisions (d) and (e), neither a public agency operating flood control and water conservation facilities nor its employees are liable under this chapter for an injury caused by the condition or use of unlined flood control channels or adjacent groundwater recharge spreading grounds if, at the time of the injury, the person injured was using the property for any purpose other than that for which the public entity intended it to be used, and, if all of the following conditions are met:

(1) The public agency operates and maintains dams, pipes, channels, and appurtenant facilities to provide flood control protection and water conservation for a county whose population exceeds nine million residents.

(2) The public agency operates facilities to recharge a groundwater basin system which is the primary water supply for more than one million residents.

(3) The groundwater supply is dependent on imported water recharge which must be conducted in accordance with court-imposed basin management restrictions.

(4) The basin recharge activities allow the conservation and storage of both local and imported water supplies when these waters are available.

(5) The public agency posts conspicuous signs warning of any increase in water flow levels of an unlined flood control channel.

(d) Nothing in this section exonerates a public entity or a public employee from liability for injury proximately caused by a dangerous condition of property if all of the following occur:

(1) The injured person was not guilty of a criminal offense under Article 1 (commencing with Section 552) of Chapter 12 of Title 13 of Part 1 of the Penal Code in entering on or using the property.

(2) The condition created a substantial and unreasonable risk of death or serious bodily harm when such property or adjacent property was used with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The dangerous character of the condition was not reasonably

apparent to, and would not have been anticipated by, a mature, reasonable person using the property with due care.

(4) The public entity or the public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(e) Nothing in this section exonerates a public entity or a public employee from liability for injury proximately caused by a dangerous condition of property if all of the following occur:

(1) The person injured was less than 12 years of age.

(2) The dangerous condition created a substantial and unreasonable **risk** of death or serious bodily harm to children under 12 years of age using the property or adjacent property with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The person injured, because of his or her immaturity, did not discover the condition or did not appreciate its dangerous character.

(4) The public entity or the public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(f) Subdivision (c) shall become inoperative on and after January 1, 2002.

831.9. (a) The County of Los Angeles Department of Public Works shall maintain a record of all known or reported injuries incurred by the public in the unlined flood control channels or adjacent groundwater recharge spreading grounds during the activities of groundwater recharge. The County of Los Angeles Department of Public Works shall also maintain a record of all claims, paid and not paid, including any civil actions or proceedings and their results, arising from those incidents, that were filed against the county. Beginning in 2000, copies of these records shall be filed annually, no later than January 1 of each year, with the Judicial Council, which shall then submit a report to the Legislature on or before January 31, 2001, on the incidences of injuries incurred, claims asserted, and the results of any civil action or proceeding filed, by persons injured at these facilities.

(b) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.



Fact: It is your responsibility to **consider** all of the **issues**. BMX Skateboarding and inline ke all sports, can be dangerous. When considering the rules for your park, there are three main choices you ave with respect to allowing BMX bicycles:

Allow BMX to ride **all** hours **with skateboards** and inline skaters.

his is the **model** followed by the oldest parks in the world, and is currently being adopted by many public arks. From a BMX rider's **perspective**, this is obviously the most preferred option. We feel that **all** users of kateparks need to get along and learn to share. One of the most obvious things to do in this case is to make **the park large** enough for anticipated growth in the number of participants. **Also**, more space **allows** designers **to place** objects in the park further apart, giving participants more time to anticipate the they direction end a wid **ollisions**. Consider that snowboards were not allowed in many ski resorts for many years for fear of injuries to kiers. It is now almost unheard of to discriminate against these athletes.

Have separate hours for BMX

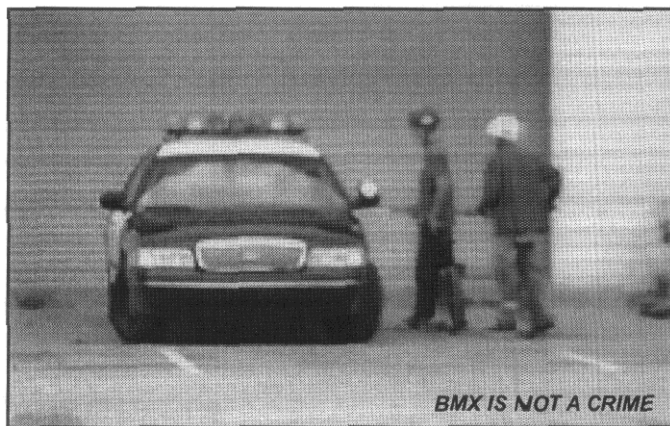
BMX riders understand the need to split the hours of use if the **facility** becomes too crowded during peak hours, ut it should **be** understood that a new skatepark will have a Nsh of use when the park first opens. If separate ours are set up, they must be fair to all users of the park and include popular weekend and after-school **meslots** for all **sports**. Times that are not crowded should be available for all to ride.

Build a bike only park in addition to your skatepark.

his is a viable Solution and some public BMX parks already exist. The BMX Riders Organization is in favor of uiding more of these parks, but we believe that it is unrealistic to think that skateboarders and inline skaters **will not use** these parkstoo, whether or not it is iegai for them to do so. We **feel** that the best solution **will** be to pen parks to all sports. if the parks are too crowded, an easy solution **would be** to simply rotate the days in rhich bikes and skates are allowed.

hem are many **important details** in building a public **skatepark**. It pays to hire **skilled contractors** who are **racticed** in **building** facilities for ALL spoils. Please check the **resources section** of our **website** for a **list** of kateparksbuilders who support BMX. It is crucial that athletes **from all** sports have input during the design **rocess**

We hope **that this fact** sheef will **help** you make decisions **that** are **not only** informed **but** also fair **to** all members **f your community**.



BMX IS NOT A CRIME



This fact sheet is meant to serve as a resource to Parks and Recreation administrators, skatepark designers, and builders to aid in understanding BMX riding in skatepark. It is also a resource for BMX riders to use when allending public planning meetings. There are currently many misconceptions about BMX park riding, and it is our hope that with more information available, reasonable compromises can be made that include BMX riders in all skateparks. For any comments or clarifications please Contact the BMX Riders Organization at 1230 Market Street #502 San Francisco, CA 94102-4801 or email info@bmxriders.org

Fact: There are over 1 million BMX riders in the United States. Despite the fact that we are the minority in the world of "Bikes, boards and blades", BMX freestyle is a rapidly growing sport and is clearly more popular than other sports that already have public facilities. According to Bicycle Retailer and industry News, BMX bikes accounted for 30% of all bike sales in 1998. In some communities, the number of BMX riders even outnumbers skateboarders.

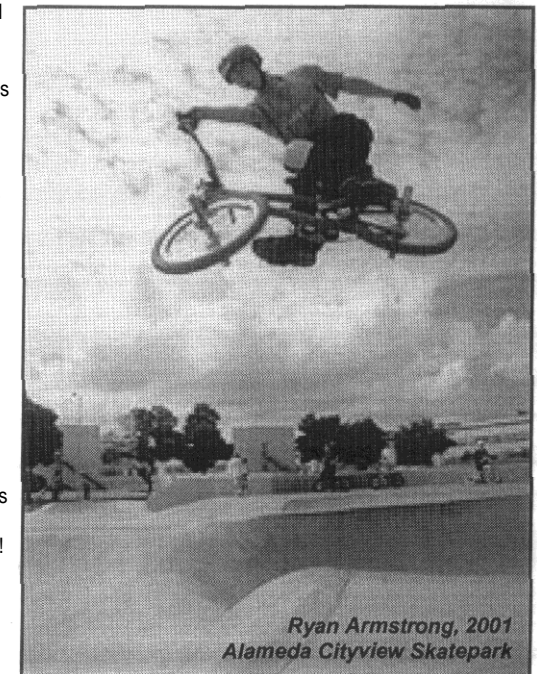
Fact: BMX riders are part of your community. These children are just as entitled to enjoy the benefits of public facilities as skateboarders and traditional "stick and ball" athletes.

Ticketing riders for using your public facility is unfair. Those who can afford these tickets are often willing to pay them, but for disadvantaged kids and their families, it is an undue burden.

Fact: Sports are healthy for kids. According to Archives of Pediatrics & Adolescent Medicine (1995) 1 out of every 8 American kids suffers from obesity and another 1 in 5 is overweight. Obesity has more than doubled in the US since the 1960's. A recent study lead by Dr. Strauss, director of the childhood-weight anhi program at the Robert Wood Johnson Medical School (NJ) found that the average child spent only 12 minutes a day running or playing hard. Obesity and physical inactivity account for \$100 billion in health care expenditures each year. More important are the emotional problems that accompany obesity. Skateboarders, inline skaters and BMX Riders will happily spend many HOURS per day practicing their sport, which in turn builds confidence.

More importantly, there have been countless studies showing that kids who participate in sports are less likely to use drugs or join gangs. **Treating young BMX athletes as criminals** is sending the wrong message!

It is noteworthy that baseball players were once treated as criminals because they played ball in the streets. Eventually they came to be accepted by society as athletes simply doing what they love. BMX riders are no different -- we love to ride our bikes!

Ryan Armstrong, 2001
Alameda Cityview Skatepark



Jeff Watson, 1981 - Rancho Mediterra Skatepark

Fact: There is a long standing history of BMX in skateparks. "Skate"park is just a word. Just because it is called a skatepark doesn't mean that BMX riders don't practice there. There is really no such thing as a "bike" park.

BMX riders have been riding skateparks as long as skateboarders have. In fact, before the first skateparks were built, kids were riding Schwinn Stingrays in empty swimming pools.

The early roots of formal BMX "park riding" can be traced back to Lakewood skatepark, the first skatepark in California. This park was home to the most famous park riders of the 1970s, who were allowed to use the facility during all hours. They were also given special "bike only" days. In 1979, Lakewood Skatepark hosted the first BMX park competition.

For evidence of the long term effects of bikes in skateparks, we can look to the oldest parks in existence (such as Southsea and Romford in the

K) These parks have been skate parks for over 15 years without separate hours or additional maintenance over and over. There is no reason that public parks in the United States cannot do the same.

act: Skateparks are just as useful to BMX freestylers as they are to skateboarders. Like skateboarding, BMX is a creative sport and BMX riders find public skateparks to be just as useful as skateboarders do. BMX riders and skateboarders routinely compete on the same courses and it's reasonable that they should be able to practice on the same courses.

act: Your city may produce the next Michael Jordan or Tiger Woods of BMX. Imagine if Tiger Woods grew up in your town but was not a coked on golfer. This situation is happening right now with many talented young BMX athletes. ESPN reports that bicycle stunt is the most popular X-Games sport for television viewers. There might be riders in your community that could make your town famous.

The town of Edmond, Oklahoma was in the same position many communities planning a skatepark are in - they had not thought to so **not** BMX input and were later surprised by the amount of interest from BMX riders. Edmond is now planning to allow bicycles in their skatepark. Parks and Recreation Director Mar Meyer offered the following comment:

"Alternative sports such as BMX bikes and skaters also deserve access to public facilities so that they can practice and enjoy their sport just as much as participants in the traditional ball sports."

Edmond happens to be where Mat Hoffman grew up and he is now a world class athlete who has made his own famous. Mat is also referred to as "the Tony Hawk, Michael Jordan or Tiger Woods of BMX".

act: You have a choice to include BMX riders in your skatepark. Many world-class skateparks exist that serve all sports. Some of these parks are publicly owned and operated. For a list of public skateparks that allow bicycles, please visit our web site at www.bmxriders.org.

Fact: Bicycling is on the hazardous sports list in almost every state. The "Hazardous recreational activity" list in California is even more specific, and includes...bicycle racing or jumping, mountain bicycling, ... (Ca. Gov. Code Sec. 831.7).

Fact: Without public facilities, BMX kids are on their own to find places to ride. With nowhere else to go, BMX riders will ride in the streets. This is certainly more dangerous than riding a skatepark and can cause damage to public and private property.

Remember that most BMX freestylers would rather ride in a skatepark than in the streets. However, like skateboarders, we adapt to our surroundings and make do with what we have.

Fact: "If you build it they will come". Regardless of what the signs say, BMX riders will ride public skateparks. This is not because we want to break the law, but rather that park riding is a popular discipline in BMX and there is currently a scarcity of facilities.

Discriminating against BMX riders in your public skatepark guarantees trouble for the local police department. Police resources are better spent fighting real crime rather than ticketing kids for riding their bikes.

It will not be as simple as putting up a "no bicycles" sign. BMX riders are now exposed to media such as the X-Games which show them riding the same "park courses" as skateboarders and inline skaters. Precedence has been set and it is reinforced by media images that group these sports in the same venues.

If you choose to completely exclude BMX riders from your skatepark they will only see your rule as discriminatory and ignore it (remember the failure of "no skateboarding" signs). These unfair rules can also produce an "us against them" attitude toward the police and the government.

Fact: BMX racetracks and public dirt jumps are not a substitute for a skatepark. A common question we get is "We have a local BMX track. Why don't these kids just ride there?" BMX tracks are great but they are for racing, which is a different sport from park riding. Though there is some overlap, most BMX freestylers would find no use for a racetrack. In sum, these facilities serve two different, though overlapping, groups.

Fact: BMX bicycles do not destroy skateparks. There is no study showing that BMX use will lead to greater wear than skates on a properly built skatepark. According to the Skatepark Association of the USA, "We have been surveying parks for several years and have not written up with any evidence that they cause any more wear and tear than skateboarders or inline skaters."

Concrete skateparks are now being built very sturdily and there is no proof of additional wear from BMX bikes. The myth that bicycles destroy skateparks may have started back in the days when ramps were sketchy wooden shanties with flimsy sheeting and inadequate bracing. Southsea and Romford, which are public skateparks in England, have over 15 years experience with BMX in their parks and have always remained open to all sports. Effraim Catlow, operator of Southsea skatepark for many years had this to say: "We run Bikes, Blades and Boards together every session, we've never had any problems. Contests run separately of course. Bikes have never affected the maintenance of the park."

Bicycles spend almost all of their time on rubber tires and only occasionally strike the surface with their pegs or handlebar ends. The manufacturer of Skatelite, the leading ramp surfacing product, has endorsed this product for BMX use. Skatelite has been in use at Mat Hoffman's BMX/skate ramp facility for over 2 years under the highest stress conditions and has held up fine.

It is important to remember that cement is far stronger than wood or Skatelite.